

UNITED STATES DISTRICT COURT

FILED

for

WESTERN DISTRICT OF TEXAS

AUG 01 2016

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature] DEPUTY**Petition for Warrant or Summons for Offender Under Supervision**Name of Offender: Timothy Sean Ostaszewski Case Number: SA-11-CR-540(1)FBName of Sentencing Judicial Officer: Honorable Fred Biery, United States District JudgeDate of Original Sentence: April 20, 2012Original Offense: Count 1: Bank Fraud, in violation of 18 U.S.C. § 1344, Count 2: Aggravated Identity Theft, in violation of 18 U.S.C. § 1028A(a)(1)Original Sentence: Thirty Seven (37) months imprisonment on Count One and Twenty Four (24) months imprisonment on Count Two, to be served consecutively; five (5) years supervised Release on Count One and one (1) year supervised release on Count Two, to be served concurrently, \$50,000 Restitution, and \$200 special assessmentType of Supervision: Supervised Release Date Supervision Commenced: January 5, 2015Assistant U.S. Attorney: Ray Gattinella Defense Attorney: Douglas S. Daniel**PREVIOUS COURT ACTION**

On May 14, 2012, a First Amended Judgement was filed to include special conditions and forfeiture language.

On February 2, 2015, a Probation Form 12B, Request for Modifying the Conditions or Term of Supervision with Consent of the Offender, was submitted to the Court, modifying the offender's conditions of supervision, to include a restitution payment schedule of \$75.00 per month.

PETITIONING THE COURT

- ☒ To issue a warrant
☐ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1.	The defendant shall not commit another federal, state, or local crime during the term of supervision.
2.	The defendant shall abstain from the use of alcohol and/or all other intoxicants during the term of supervision.

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On June 13, 2016, the offender committed the offense of Driving While Intoxicated. According to San Antonio Police Department (SAPD) offense report No. 2016127031, an SAPD Officer initiated a traffic stop as the offender's vehicle was observed drifting from right to left and crossing over lane dividers several times. During questioning by the officer, the offender exhibited signs of intoxication to include, strong smell of intoxicants, red blood shot eyes, slurred speech, and a slow response to the officer's requests. A field sobriety test was conducted and the offender was unable to perform the walk and turn test, the one leg stand test, and the heel to toe touch test. The offender was placed under arrest and charged with driving while intoxicated. The case was filed in Bexar County Court No. 5, under Case No. 520284, and remains pending.

U.S. Probation Officer Recommendation:

Mr. Ostaszewski completed the Residential Drug Abuse Program (RDAP) and the Transitional Drug Abuse Treatment (TDAT) Program, while incarcerated. Upon inception of his term of supervised release on January 5, 2015, he was referred to Lifetime Recovery for outpatient treatment. On October 1, 2015, he successfully completed outpatient treatment.

The U.S. Probation Office has made efforts to help the offender maintain his sobriety through officer counseling, urinalysis testing, and outpatient treatment; however, due to the offender's new criminal offense of driving while intoxicated, it appears he is unwilling to adhere to the assistance of the probation office by continuing to abuse alcohol.

Based on the fact that the offender committed a new offense, this officer respectfully recommends a warrant be issued and a hearing held to show cause as to why the offender's term of supervised release should not be revoked.

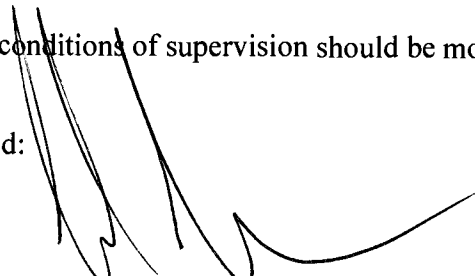
☒ The term of supervision should be

☒ revoked. (Maximum penalty: 3 years imprisonment; 5 years supervised release; and payment of any unsatisfied monetary sanction previously imposed)

☐ extended for years, for a total term of years.

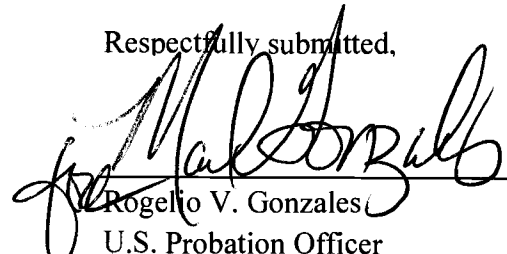
☐ The conditions of supervision should be modified as follows:

Approved:



 Arthur R. Galvan
 Supervising U.S. Probation Officer
 Telephone: (210) 472-6590, Ext. 5315

Respectfully submitted,



 Rogelio V. Gonzales
 U.S. Probation Officer

Telephone: (210) 472-6590, Ext. 5380
 Date: July 22, 2016

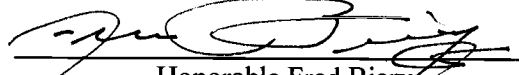
cc: Ray Gattinella
 Assistant U.S. Attorney

Marc S. Martinez
 Assistant Deputy Chief U.S. Probation Officer

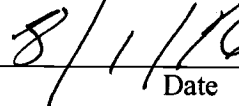
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THE COURT ORDERS:

- ☐ No action.
- ☒ The issuance of a warrant.
- ☐ The issuance of a summons.
- ☐ Other _____



Honorable Fred Biery
United States District Judge



Date